

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14096 of 2023

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Upendra Singh Son of Late Vindeshwari Singh @ Vindeshwar Singh R/o of village - Barundih, P.S -Barun, Dist- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Collector, Aurangabad.
2. The District Collector, Aurangabad, Dist.- Aurangabad.
3. The Additional Collector, Aurangabad, Dist.- Aurangabad.
4. The Land Acquisition Officer, Dist- Aurangabad.
5. The Competent Authority cum Deputy Collector, Land Reforms, Aurangabad, Dist - Aurangabad.
6. The Anchal Adhikari, Barun Anchal, Dist - Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Brij Bihari Tiwary, Advocate
For the Respondent/s : Mr.Md. Khurshid Alam, AAG-12

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
CAV JUDGMENT

Date :13-11-2024

Heard Mr. Brij Bihari Tiwary, learned counsel for the petitioner and Mrs. Nutan Sahay, learned A.C. to AAG-12.

2. The petitioner has prayed for the following reliefs in the writ petition:

(I) In the nature of certiorari for setting aside the order dated 07.07.2022 passed jointly by learned L.R.D.C and sub Divisional officer, Aurangabad in title verification case No. 35/2020-2021 whereby and where under the Raiyati claim of the petitioner has been recommended to be rejected based on the report of circle officer Barun and forwarded the same to the Add. Collector Aurangabad.



(II) In the nature of certiorari also to setting aside the order dated 09.02.2023 passed in the title verification case No. 35/2020-2021 by the Add. Collector and Collector, Aurangabad whereby the order of learned LRDC & S.D.O, Aurangabad dated 07.7.2022 passed in aforementioned case has been confirmed.

(III) In the nature of mandamus also directing and commanding the respondent authorities for payment of compensation amount to the petitioner for the land which has been acquired by the respondents.

(IV) For issuance of any other relief or relief or reliefs for which the petitioner is entitled for.

3. The land in dispute is a part of land situated in Mauza Barun, P.S- Barun Dist Aurangabad bearing Thana No. 155, Khata No. 171 Khesra No. 1274 area 504 Square metre. The land in question bearing Khata No 171 was recorded in CS khatian as Gairmajarua Malik land and the Ex landlord had issued Parwana Bandobasti with respect to the land of plot No. 1274 along with other several other plots in name of Chhedi Mohto S/o Jiyut Mohto and put the settle in the possession on and recognize the settle as raiyat, the Ex- landlord issued rent receipt with respect to land in question. The Ex-landlord at the time of vesting Zamindari,



submitted return showing the ancestor of the petitioner as Raiyat in possession which was recognized, approved by the competent authority.

4. Learned counsel for the petitioner submits that Chhedi Mahto S/o Jiyut Mahto had five sons namely Shiv Bhajan Singh, Ram Kewal Singh, Ram Prasad Singh, Chuni Singh and Lakshman Singh, and after death of Chhedi Mahto, the land came in possession of his sons and there was amicable partition among sons and Shiv Bhajan Singh also got share in the property settled in the name of Chhedi Mahto. After amicable partition, the land allotted to Shiv Bhajan Mahto, separate demand was open and till live the demand was running in the name of the Shiv Bhajan Mahto Son of Chhedi Mahto and name was entered in Register-II and he is continuously paid rent and granted recent receipt till 1986.

5. Learned counsel for the petitioner further submits that Shiv Bhajan mahto died living behind his son, namely, Bindeshwari Singh and after death of Shiv Bhjan Mahto, the demand was open in the name of father of the petitioner, namely, Bindeshwari Singh and after death of Bindeshwari Singh, who died on 12.03.2013, the land in question came in possession of the petitioner and petitioner is paying rent continuously up to 2021-



2022. Learned counsel for the petitioner submits that now the petitioner is Raiyat of land of Khata No.171, Plot No.1274.

6. Learned counsel for the petitioner submits that for the purpose of widening of National Highway-2 steps, the State Govt. has started steps for acquisition of land by the competent authority under National Highway Act, 1956. The respondent No.6 for the purpose of payment of compensation to the land owner has initiated title verification proceeding against land owners whose land/building were likely to be acquired for widening the National Highway-2. The petitioner's land in question was verified for such acquisition and verification Case No.35/2020-21 was instituted against the petitioner and his brothers. After initiating the proceeding, notice was issued to the petitioner and pursuant to the said notice, the petitioner appeared before the respondent No.6 and produced documents alongwith application dated 19.02.2021 creating Raiyati interest in the land in question (Viz) Basgit Parwana, Rent Receipts issued in the name of his ancestral and thereafter in the name of his father with Plot No.1274. Learned counsel for the petitioner submits that the respondent No.6 without ascertaining the facts and circumstance of the instance case and ignoring the documents/evidence which was brought on the record by the petitioner and contrary to the policy of the State Govt.,



contained in Memo No.925 (6) dated 11.11.2014 and clarification thereof, issued vide letter No.486 (6) dated 10.05.2016 has recommended not to award raiyati claim to the petitioner vide order dated 06.05.2022. Learned counsel for the petitioner submits that from a bare perusal of the relevant document which was submitted by the petitioner in Verification Case No.35/2020-2021 which suggests that the petitioner is in possession of the said piece of land and the name of his father was registered in the Register-II and Jamabandi was created in the name of his ancestor and thereafter competent authority has also accepted the rent receipt. Thereafter the respondent-LRDC vide order dated 07.07.2022 passed in Title Verification Case No.35 of 2020-21 without appreciating the documents brought on the record by the petitioner and knowing the fact that the petitioner is in possession of the land in question and petitioner is also paying the revenue rent and having continuously possession since last 17 years has been pleased to recommend to reject the Raiyati claim of the petitioner and same was forwarded for confirmation to the Additional Collector, Aurangabad. Learned counsel for the petitioner submits that the petitioner had appeared before the respondent No.3(Additional Collector) and submitted his relevant documents, the matter was heard in support of his claim but the respondent



No.3 has rejected the Raiyati claim of the petitioner vide order dated 09.02.2023 which was confirmed by the Additional Collector, Aurangabad.

7. Learned counsel for the petitioner submits that the several persons viz. Balram Singh, Pradeep Kumar, Abhay Singh, Manoj Singh, Arun Singh whose land falls under Khata No.171 had been awarded compensation which is a Garmazarua Malik Land but the petitioner was discriminated on the basis of whim and caprice of the competent authority-cum-Land Reforms Deputy Collector. Learned counsel for the petitioner has relied upon the judgments in the case of **Maya Devi & Ors. Vs. The State of Bihar & Ors.**, reported in **2014(3) PLJR 584** and **Vijay Kumar Prasad Vs.The State of Bihar & Ors.** reported in **2017(1)PLJR 818**.

8. Learned counsel for the petitioner has also relied upon the judgment **dated 13.09.2022** passed in **CWJC No.16985 of 2018 Nathuni Singh & Ors. Vs. State of Bihar & Ors.**

9. Learned counsel for the State has filed a counter affidavit stating therein that the impugned orders passed by the competent authority in accordance with law and competent authority after examining all the aspects, has passed the impugned order and the order passed by the authority on the basis of the



report of the Revenue Karamchari with respect to the land in question, no case has been made out for interference by this Court.

10 Having heard the parties and it appears that the ancestor of the petitioner has got the land in question and received the same from the erstwhile landlord and the name of father of the petitioner was entered in Register-II and after death of his father, the petitioner has also paid the rent to the authority concerned till 2022 and without verifying the same, the order dated 07.07.2022 jointly passed by learned L.R.D.C and Sub Divisional Officer, Aurangabad in Title Verification Case No. 35/2020-2021 and order dated 09.02.2023 passed in the Title Verification Case No. 35/2020-2021 by the Add. Collector and Collector, Aurangabad.

11. In view of the aforesaid, the order dated 07.07.2022 jointly passed by learned L.R.D.C and Sub Divisional Officer, Aurangabad in Title Verification Case No. 35/2020-2021 and order dated 09.02.2023 passed in the Title Verification Case No. 35/2020-2021 by the Add. Collector and Collector, Aurangabad are set aside and State shall be at liberty to file a suit if it challenged the settlement in favour of the predecessor-in-interest of the petitioner and Jamabandi in their favour but filing of the Title Suit by the State will not deny the compensation amount



which is to be paid to the petitioner pursuant to the land having been acquired by the competent authority.

12. Accordingly, this writ application stands allowed.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	23.10.2024
Uploading Date	13.11.2024
Transmission Date	NA

